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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,773	12/13/2006	Christian Merkle	016906-048-4	2525
22428 7590 08/20/2010 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
ENGLE, PATRICIA LYNN				
ART UNIT		PAPER NUMBER		
3612				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,773

Applicant(s)

MERKLE ET AL.

Examiner

PATRICIA L. ENGLE

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 28-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 28-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1 and 28-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (US Patent No. 6,942,910) in view of Wagenblast et al. (US Patent No. 6,503,585).

Roberts et al. disclose a hybrid component for a vehicle, comprising: a plastic structure (24); and a metal base body (22) having an edge region (B) and an integrally formed fixing element (44) on the edge region, wherein the fixing element (44) is configured to at least mechanically join the plastic structure (24) to the base body (22).

Roberts does not disclose that an edge of the fixing element is inserted into a recess in the plastic structure.

Wagenblast et al. disclose a mechanical fastening configuration in which the fixing element is inserted into a recess.

Roberts et al. and Wagenblast et al. are analogous art because they are from the same field of endeavor, i.e., hybrid components.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a recess in the plastic structure and inserting the fixing element into the recess, since it is a known equivalent fixing arrangement between a plastic element and a metal element.

Therefore, it would have been obvious to combine Wagenblast et al. with Roberts et al. to obtain the invention as specified in claim 1, 42 and 45-47.

Regarding claims 28 and 38, Roberts further discloses that the metal base body (22) designed as a hollow profile, the integrally formed fixing element (44) is itself formed by an edge (Fig. 3) running along the longitudinal axis.

Regarding claims 30 and 31, Roberts further discloses that the integrally formed fixing element (44) at least partially surrounds the plastic structure (24) in the edge region thereof.

Regarding claim 32, Roberts further discloses that the integrally formed fixing element (44) is provided with at least one structural element, in particular with a rib, a web (Fig. 3), a knob, an aperture.

Regarding claim 33, Roberts further discloses that the plastic structure (24) is additionally connected in its edge region (42) to the metal base body (22) in a bonded fashion with the aid of an adhesive-bonded connection, an injection molded plastic connection, soldered connection and/or welded connection.

Regarding claim 34, Roberts further discloses that the plastic structure (24) is designed as a stiffening structure, a guide structure or a combination thereof.

Regarding claim 35 and 44, Roberts further discloses that the plastic structure (24) is of unipartite or multipartite design.

Regarding claim 39, Roberts further discloses that the hybrid component is a dashboard carrier in a vehicle having a duct (14), in particular an air guide duct and/or a cable duct.

Regarding claim 40 and 41, Roberts further discloses that the hybrid component is a crossrail (14) in a vehicle, in particular as a crossrail between the A-pillars of a vehicle or as a front end component.

Regarding claim 43, Roberts further discloses that the fixing element (44) surrounds the plastic structure (24) at least in a U-shape fashion (Fig. 3).

Regarding claim 29, Roberts et al. as modified disclose the component as claimed in claim 1. Roberts et al. does not disclose that the integrally formed fixing means is in a comb structure shape or a latching shape. It would have been an obvious matter of design choice to make the integrally formed fixing means of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. In re Dailey et al., 149 USPQ 47.

Regarding claim 36, Roberts et al. as modified disclose the component as claimed in claim 1, in which the plastic structure (24) is formed from a thermoplastic (column 2, line 39). It is unclear if the limitation that the thermoplastic is a fiber-reinforced and/or filled plastic is part

of the claim. Roberts et al. does not disclose a fiber-reinforced plastic. Roberts et al. does disclose a plastic composite. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fiber-reinforced plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. See also Ballas Liquidating Co. v. Allied industries of Kansas, Inc. (DC Kans) 205 USPQ 331.

Regarding claim 37, Roberts et al. as modified disclose the component as claimed in claim 1, in which the metal base body (22) is formed from a light metal, in particular aluminum (column 2, line 36), magnesium or titanium, or from fine steel. Roberts et al. do not disclose the wall thickness. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a wall thickness of 0.4 mm to 1.5 mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

4. Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (US Patent No. 6,942,910) in view of Fischer et al. (US Patent No. 6,421,979).

Roberts et al. disclose the component as claimed in claim 1. Roberts et al. do not disclose that the fixing element is a latching element. Fischer et al. disclose a hybrid component with a fixing element that is a latching element (Fig. 4). Roberts et al. and Fischer et al. are analogous

art because they are from the same field of endeavor, i.e., hybrid components. At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a latching element, since it is a known equivalent fixing arrangement between a plastic element and a metal element.

Response to Arguments

5. Applicant's arguments filed July 13, 2010 have been fully considered but they are not persuasive. The Applicant argues that the combination of Roberts et al. and Wagenblast et al. does not disclose a fixing element inserted into a recess. The Examiner disagrees. Wagenblast et al. teach in Fig. 4 that the fixing element can be inserted into a recess.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICIA L. ENGLE whose telephone number is (571) 272-6660. The examiner can normally be reached on Monday - Friday from 7:30am- 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/
Primary Examiner, Art Unit 3612